

OUTREACH PLAN

Final Rule to designate critical habitat for Cape Sable Thoroughwort (*Chromolaena frustrata*)

USFWS - Region 4

Updated: November 14, 2013

FREQUENTLY ASKED QUESTIONS

1. What does a critical habitat designation do?

Critical habitat is a term in the Endangered Species Act (ESA) that identifies geographic areas containing features essential for the conservation of a listed species and which may require special management considerations or protection. Specifying the location of habitat essential for the conservation of the species helps federal agencies identify where to utilize their authorities to benefit listed species. The designation also helps focus the conservation efforts of other conservation partners, such as state and local governments, non-governmental organizations, and individuals.

The Service will work cooperatively with partners to conserve critical habitat for the Cape Sable thoroughwort. In addition, federal agencies need to ensure activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the thoroughwort or result in the destruction or adverse modification of its critical habitat. Designating critical habitat also provides non-regulatory benefits by informing the public of areas that are important to the species' recovery and identifying where conservation actions would be most effective.

Section 7(a)(2) of the ESA requires federal agencies, including the Service, to ensure that any action they fund, authorize, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification its designated critical habitat.

In addition, Section 7(a)(4) of the ESA requires federal agencies to consult with the Service on any agency action which is likely to jeopardize the continued existence of any species proposed to be listed under the ESA or result in the destruction or adverse modification of proposed critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. A critical habitat designation does not allow the government or public to access private lands, nor does it require implementation of restoration, recovery, or enhancement measures by non-federal landowners.

2. How much critical habitat has been designated for the Cape Sable thoroughwort and where is it located?

About 10,968 acres in Miami-Dade and Monroe Counties, Florida, are designated as critical habitat for Cape Sable thoroughwort. The proposed critical habitat areas are on Everglades National Park, Key Largo, Upper Matecumbe Key, Lignumvitae Key, Lower Matecumbe Key, Long Key, Big Pine Key, Big Munson Island, Key West and Boca Grande Key. When designating critical habitat boundaries, the Service avoided developed areas such as lands covered by buildings, pavement, and other structures because such lands lack physical or biological features that could support the Cape Sable thoroughwort. For more information, please visit <http://www.fws.gov/vero-es/>.

3. Why were these particular critical habitat units chosen, what were the criteria?

The Cape Sable thoroughwort requires the following physical and biological features:

- Upland habitats consisting of coastal berms, coastal rock barrens, buttonwood forests, coastal hardwood hammocks, and rockland hammocks restricted to tropical south Florida and the Florida Keys.
- Substrates derived from calcareous sand, limestone, or marl providing anchoring and nutritional requirements.
- Habitats inundated by storm surge or tidal events at a frequency needed to limit plant species competition while not creating too saline conditions.
- Habitats with a vegetation composition and structure that allows for adequate sunlight and space for individual growth and population expansion.
- Habitats with disturbance regimes, including hurricanes, and infrequent inundation events that saturate the substrate and maintain the habitat suitability.

The current distribution of the Cape Sable thoroughwort is much reduced from its historical distribution. Small populations and limited distributions, like those of Cape Sable thoroughwort, are vulnerable to relatively minor environmental disturbances and are subject to the loss of genetic diversity. Plant populations with lowered genetic diversity are more prone to local extinction. Recovery of the Cape Sable thoroughwort will require continued protection of existing populations and habitat. Populations also need to be established in additional locations that more closely approximate its historical distribution to ensure that there are an adequate number of stable populations, and these populations occur over a wide geographic area within the species historical range. This will help to ensure that catastrophic events, such as hurricanes or wildfires, would not simultaneously affect all known populations.

The occupied critical habitat units were delineated around existing populations. These units include the mapped extent of the populations containing one or more of the habitat and biological features needed by the thoroughwort. The delineation included space to allow for the successional nature of the occupied habitats (i.e., gain and loss of areas with sufficient light availability due to disturbance of the tree canopy driven by natural events such as inundation and hurricanes), and habitat transition or loss due to sea level rise. Areas were included that maintained habitat connectivity for population expansion and connection with other populations. Isolation of populations can result in localized extinctions. Areas once restored will support a higher density of the plant within the occupied space. These areas generally are habitats where some of the needed habitat characteristics have been lost. These areas would help to offset the

anticipated loss and degradation of habitat occurring or expected from the effects of development, sea level rise, storms, or wildfires.

The currently occupied habitat is not adequate for the conservation and recovery of Cape Sable thoroughwort. The unoccupied areas within the critical habitat designation are at least 30 acres or greater in size. The amount and distribution of designated critical habitat areas will allow Cape Sable thoroughwort to (1) Maintain its existing distribution; (2) Expand its distribution into historically occupied areas (needed to offset habitat loss and fragmentation); (3) Use habitat depending on habitat availability (response to changing nature of coastal habitat including sea level rise) and support genetic diversity; (4) Increase the size of each population to a level where the threats of genetic, demographic, and normal environmental uncertainties are diminished; and (5) Maintain its ability to withstand local or unit level environmental fluctuations or catastrophes.

4. What does the critical habitat designation mean to residents and property owners of these areas?

Designation of critical habitat also does not affect land ownership or establish a refuge or preserve. The designation of critical habitat on private land has no impact on private landowner activities that do not require federal funding or federal permits. The regulatory implications of designating of critical habitat only apply to federal activities. The Service will continue to consult on projects federal agencies conduct, fund, and/or permit that may impact these plants, regardless of whether these projects occur in designated critical habitat or not.

The Service designated critical habitat for the Cape Sable thoroughwort when it reviewed the status of three south Florida plants, the thoroughwort, the Florida semaphore cactus, and the aboriginal prickly-apple.

As part of an overall effort to improve implementation of ESA the U.S. Fish and Wildlife Service submitted to the U.S. District Court for the District of Columbia, a multi-year listing work plan that enables the Service to systematically review and address the needs of more than 250 species listed on the 2010 Candidate Notice of Review, to determine if they should be added to the federal lists of endangered and threatened wildlife and plants. If a species is added to the list, the Service determines whether designation of critical habitat is prudent and determinable for it. The multi-year listing work plan was initially developed by the Service to consolidate litigation. The work plan was finalized through agreements with two frequent plaintiff groups WildEarth Guardians (Guardians) and the Center for Biological Diversity (CBD). The Service reached agreement on the work plan with the Guardians and filed in the U.S. District Court for the District of Columbia on May 10, 2011. On July 12, 2011, the Service reached an agreement with plaintiff group CBD that reinforced the work plan. These agreements were approved by the Court on September 9, 2011. The listing and designation of critical habitat for the Cape Sable thoroughwort was done in the spirit of that work plan, but more importantly, as an opportunity to put the needs of species first and extend that safety net to those truly in need of protection.

5. What is the biggest threat to the Cape Sable thoroughwort's habitat?

The decline of Cape Sable thoroughwort is primarily the result of habitat loss from commercial and residential development, sea level rise, storms, competition from nonnative plants, predation by non-native herbivores, wildfire, and other human-caused impacts.

6. Why designate critical habitat for only the Cape Sable thoroughwort and not the Florida semaphore cactus and the Aboriginal prickly-apple?

The Service did not propose critical habitat for Florida semaphore cactus and aboriginal prickly-apple because of the potential to increase the threat of poaching of both these cacti. However, the Service is re-evaluating the prudency determination for these species based on the current availability of their location information versus information provided in the critical habitat designation. If the Service determines that our original not prudent determination was incorrect, it will publish a proposed rule to designate critical habitat for Florida semaphore cactus and aboriginal prickly-apple.

7. Did the Service consider the possible economic impacts the proposed designation of critical habitat might have on coastal communities and landowners?

Yes. The Service conducted an economic analysis of the proposed critical habitat that the public was encouraged to participate in. Our economic analysis didn't identify any disproportionate costs that are likely to result from the designation. This analysis considered the potential impact of the designation on various sectors of the economy over the next 20 years. The Service quantified economic impacts of conservation efforts associated with: (1) commercial, residential and recreational development; (2) federal land management; and (3) restoration and conservation.

The Service estimates the critical habitat designation will result in direct incremental costs of between \$578,000 (at a seven percent discount rate), \$764,000 (at a three percent discount rate) to \$982,000 (not discounted) over the next 20 years or \$38,000 to \$49,000 on an annual basis, depending on the discount rate.

The draft economic analysis estimates 93 percent of the costs would be attributable to consultations regarding federal land management and restoration and conservation activities, with the remaining seven percent attributable to development in the area. More than half of the estimated incremental costs are expected to result from actions occurring within the Key Largo unit, in Monroe County, Florida.

8. Who can I contact for more information regarding the critical habitat designated for the Cape Sable thoroughwort?

Contact David Bender, U.S. Fish and Wildlife Service, South Florida Ecological Services Office, 1339 20th Street, Vero Beach, FL 32960; telephone 772-562-3909; facsimile 772-562-4288. Also, please visit <http://www.fws.gov/vero-es/> or Docket Number FWS-R4-ES-2013-0029 on www.regulations.gov.

9. If someone doesn't like the decision the Service makes after the final rules are published, can they protest it or seek to have it repealed?

Under the Administrative Procedures Act, each federal agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule. If someone does not agree with the Service's final decision, they may submit a petition to the Service to request the decision be changed or negated. Petitions are formal requests to list a species as endangered or threatened under the ESA. The ESA requires that the Service make and publish specific findings on the petition. The regulations that apply to petitions submitted under the ESA are found in Title 50 of the Code of Federal Regulations (C.F.R.); petitions to list, delist, or reclassify species are addressed in 50 C.F.R. § 424.14(b), and petitions to revise critical habitat are addressed in § 424.14(c). The full text of the CFR is available online at <http://www.gpoaccess.gov/cfr/index.html>). For a summary of the text, see http://www.fws.gov/endangered/esa-library/pdf/petition_guidance_for_internet_final_for_posting_12-7-10.pdf

A petition must be a written document that clearly identifies itself as a petition submitted under the ESA, and it must be dated. It must contain the name, signature, address, telephone number, if any, and the association, institution, or business affiliation, if any, of the petitioner.

10. How many plants are currently listed as endangered or threatened in south Florida and have critical habitat designated? How many plants in south Florida are candidate species?

There are a total of 35 threatened and endangered plants (30 endangered and 5 threatened) in south Florida. This will be the first plant listed in south Florida that has designated critical habitat. Additionally, there are currently 11 candidate plant species in south Florida.